

January 2021



Information for Members when complaints are referred to the Investigation Committee



Our aim

ICAS is committed to maintaining public confidence in the accountancy profession by promoting the highest professional and ethical standards. One way we achieve this is through regulation which is rigorous but fair.

ICAS will take disciplinary action where there is sufficient evidence of a failure to observe the standards expected of our Members, Firms, CA Student Members and Affiliates.

The purpose of this helpsheet is to provide information on what happens when a complaint is referred to the Investigation Committee. Further information can be found in the complaints section of the ICAS website (icas.com)

In the aim of simplicity, this helpsheet will refer to Members, Firms, CA Student Members and Affiliates collectively as "Members".

What is the role of the Investigation Committee?

The Investigation Committee is responsible for the investigation and assessment of complaints referred to it by Case Officers in the Investigations Department. It decides whether or not a complaint should be upheld and the level of sanction which should be applied.

The Investigation Committee is made up of a combination of Chartered Accountants and Lay Members, with a broad and varied range of professional experience. Information on the current members of the Investigation Committee can be found on the ICAS website.

When a complaint is referred to the Investigation Committee, the Convener of the Committee will appoint an Investigator to conduct detailed enquiries. The Investigator will usually be the Case Officer, with assistance from a member of the Committee. However, in certain circumstances, it will be more appropriate to appoint a Panel of Committee members to act as Investigator; for example, if the facts involved in the complaint are particularly complex or technical.

What does the investigation process involve?

The aim of an investigation is to establish the facts of the complaint and to assess whether your conduct or competence has fallen below the expected standards.

An investigation will normally involve:

- Correspondence with all relevant parties.
- Review and consideration of the important documents.

You may also be required to attend an interview. Relevant guidance on attending an interview will be issued to you should this be required, and is also available in the complaints section of the ICAS website.

The Investigator may also seek legal or technical advice over the course of the investigation.

At the conclusion of the investigation, the Investigator will assess the allegations in light of the available evidence. A report will then be prepared, including a summary of the investigation and making recommendation for disposal of the complaint. You will receive a copy of this report, and be given a final chance to submit comments before the complaint is determined.

How long does the investigation process take?

While timescales can vary according to circumstances, the Investigation Committee aims to conclude all investigations within 6-12 months of the date on which the complaint was first received by ICAS.

What is expected of me as a Member of ICAS?

You must fully co-operate with the Investigator's enquiries, providing responses to correspondence in a timely manner, together with all information which has been requested.

If you do not believe that the complaint is justified, it is your responsibility to explain to the Investigator exactly why the complaint should be dismissed, providing all relevant evidence to support your position.

As per Investigation Regulation 3.4, Members are required to co-operate fully and promptly with the investigation of a complaint at all times. If you fail to co-operate with the Investigator without reasonable excuse, you will likely be found liable for disciplinary action on this basis alone. The Committee might also decide to apply to a Discipline Tribunal for a suspension order.

What are the potential outcomes?

In most instances, the Investigator's report is referred to an Adjudication Committee, which is responsible for deciding whether or not the complaint should be upheld. Adjudication Committees consist of three or more members of the Investigation Committee, including at least one Chartered Accountant and one Lay Member. When assessing the complaint, the Adjudication Committee will consult ICAS' Sanctions Guidance, which you can find in the complaints section of the ICAS website.

Where the Investigator's report is referred to an Adjudication Committee, you will be provided with copies of the material evidence which will be considered by the Adjudication Committee when making its decision. Material evidence will generally include:

1. Any document relied upon by the Committee.
2. Any document which:
 - a. supports the complaint; or
 - b. does not support the complaint.

Where the evidence contains personal information relating to third parties it may need to be redacted, to ensure we comply with applicable data protection requirements.

If you would like more information about the evidence we hold or how we use it, please contact us.

Complaint dismissed

There are a number of reasons why a complaint may be dismissed. In some instances, the Committee will conclude that a Member has done nothing wrong. Occasionally, complaints are dismissed because there is insufficient evidence to prove the allegations made by a complainer.

The Convener of the Committee will write to you and the complainer to confirm that the complaint has been dismissed, with an explanation of the reasons for the decision.

When a complaint is dismissed, the complainer has a right to request a review of the Committee's decision. Such reviews are undertaken by a qualified solicitor referred to as an 'Independent Examiner'.

An application for review must be made within 28 days of the Committee's decision and will only be allowed if the complainer is able to argue one of two grounds:

- The decision was not one which the Investigation Committee have reasonably arrived at having regard to the facts of the case.
- There was a conflict of interest on the part of a Committee members involved in the investigation.

Complaint upheld

If one or more of the allegations is upheld, the Committee will determine a fair and appropriate sanction. This will require consideration of any aggravating or mitigating factors.

The Investigation Committee has a range of sanctions it can apply, including:

- An order for caution, reprimand or severe reprimand.
- Exclusion from Membership.
- Surrender of licence.
- A financial penalty.

- An order to pay the costs of the investigation.

The sanctions may only be applied with your consent. You have three options if you are offered a consent order:

1. You can accept the order.
2. You can reject the order in full.
3. You can accept that you are liable for disciplinary action but reject the sanction which has been offered, leading to a Discipline Tribunal determining an appropriate sanction.

You will have 21 days to make a decision on what you would like to do. Further information on responding to a consent order will be provided to you at the time. You may wish to seek independent legal advice before making this decision.

If you reject the order offered by the Committee in full, it is likely that the Committee will decide to refer the matter to the Discipline Panel for determination. This would involve a formal hearing before a Discipline Tribunal. Further information on the Tribunal process is available at: <https://www.icas.com/regulation/guidance-and-helpsheets/guidance>

In some circumstances the Committee will not offer any sanctions but instead will refer the matter directly to the Discipline Panel for determination.

Publicity

If a complaint is upheld by the Committee, the outcome will be publicised on the ICAS website and in CA Magazine. In some circumstances, the Committee will decide that it is in the public interest for there to be additional publicity; possibly in a local or national newspaper.

As set out in the publicity guidance available on the ICAS website, you will receive advance notice of the publicity notice, with confirmation of when and where the notice will be published.

What support is available?

While ICAS' Practice Support Team will not be able to assist you with your response to the complaint, they may be able to offer general support in relation to the investigation process. This team may be contacted as follows:

- By telephone on +44 (0)131 347 0249
- By email at practicesupport@icas.com



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